

DAVID VOBORA, )  
)  
Plaintiff, )  
)  
vs. ) Case No. 4:10CV810 RWS  
)  
S.W.A.T.S., et al., )  
)  
Defendants. )

This matter is before me on defendants’ motion to dismiss for lack of personal jurisdiction. Plaintiff is a professional football player living in St. Peters, Missouri. In 2009, he was a starting linebacker for the St. Louis Rams. While he was with the Rams, plaintiff used a sports spray, called the Ultimate Sports Spray, given to him by his teammate Gary Stills. The sports spray is sold by defendant SWATS. SWATS is an acronym for Sports With Alternatives to Steroids. The SWATS program promotes athletics without the use of drugs or alcohol. Stills is an “athletic endorser” for SWATS. Defendant SWATS is a limited liability company organized and existing under the laws of Florida with its principal place of business in Fultondale, Alabama. Defendant Ross is a resident of Alabama and a member of SWATS.

Defendants argue that SWATS does not sell the spray in Missouri.

According to the motion papers, the spray given to Vobora was manufactured in

Texas, shipped to Alabama and sent to Stills in Maryland. Stills then brought the spray with him to Missouri and gave it to Vobora. Defendants do not dispute that Stills was an “athletic endorser” for SWATS. However, neither party has provided the Court with any evidence about what an “athletic endorser” actually is and what he does for SWATS.<sup>1</sup> The Court cannot rule on defendants’ motion to dismiss without evidence about the nature and role of an “athletic endorser” in this case.

Accordingly,

**IT IS HEREBY ORDERED** that defendants’ motion to dismiss is set for an evidentiary hearing on Wednesday, August 18, 2010 at 10:30 a.m. in Courtroom 10-South. The parties are responsible for presenting all evidence, including testimony, upon which they rely in support of their positions at that time.

**IT IS FURTHER ORDERED** that the parties may submit supplemental briefs on this issue by no later than Monday, August 16, 2010. The briefs shall not exceed five pages in length.



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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 15th day of July, 2010.

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<sup>1</sup>Defendants argue only what “athletic endorsers” are not: distributors.